

Appl. No. 10/655,833
Atty. Docket No. CM2694
Amdt. Dated 06/20/2006
Reply to Office Action of 03/24/2006
Customer No. 27752

REMARKS/ARGUMENTS

Claims 11 to 20 are currently under consideration. Claims 1-2 and 8-10 have been canceled herein without prejudice. No new matter is believed to be added.

Rejection Under 35 U.S.C. § 103

GB 2,369,094 (Procter) in view of US 5,645,169 (Dull)

Claims 1-2 and 8-20 stand rejected under 35 U.S.C. § 103 (a) over GB 2,369,094 (hereafter Procter) in view of US 5,645,169 (hereafter Dull) for reasons of record at Pages 2 to 5 of the Office Action. Applicants have canceled Claims 1-2 and 8-10. Consequently the rejection with respect to Claims 1-2 and 8-10 has been rendered moot.

Applicants respectfully traverse this rejection to the extent it may apply to the claims as now amended.

Applicants respectfully submit that the Office Action has failed to state a *prima facie* case for the obviousness rejection. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings. See *In re Fritch*, 972 F.2d 1260 (Fed. Cir. 1992); MPEP § 2143.01. Second, there must be a reasonable expectation of success. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991); MPEP § 2143.02. Third, the prior art reference or combined references must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981 (CCPA 1974); MPEP § 2143.03. Furthermore, in establishing a *prima facie* case of obviousness, case law clearly places the "burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103." *In re Warner*, 379 F.2d 1011, 1016 (CCPA 1967).

Claim 11, and consequently dependent Claims 12-19, as well as independent Claim 20 include the limitation of a plurality of flexible liquid-filled pouches in a random orientation. There is simply no disclosure, suggestion or teaching of a plurality of flexible liquid-filled pouches in a random orientation in Procter. Procter teaches a packaging assembly for sheets of water-soluble sachets. Procter also teaches that the

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sheets of water-soluble sachets are arranged in a repeating structure, i.e. a zigzag structure. See Page 6, lines 16 to 20 of Procter.

Procter fails to teach plurality of flexible liquid-filled pouches in a random orientation. Dull does not correct the outages of Procter as Dull does not teach a plurality of flexible liquid-filled pouches in a random orientation. Dull teaches a package for transporting flexible liquid-filled pouches where the pouches are isolated and are arranged in a spatially fixed, ordered and repetitive manner. The Office Action does not point to part of Dull where a plurality of flexible liquid-filled pouches in a random orientation is disclosed, mentioned, suggested or taught. Dull fails to teach, suggest or disclose all the claim elements of Claim 11 or claim 20, and consequently dependent Claims 12-19. Applicants find no motivation to combine Procter and Dull, but even if they were to be combined they still do not teach all the claim limitations.

Since Procter and Dull either individually or combined fail to teach, suggest or disclose all the elements of Claims 11-20, these claims are not obvious over Procter in view of Dull and therefore it is respectfully requested that this rejection be withdrawn.

CONCLUSION

Applicants have made an earnest effort to place their application in proper form and to distinguish their invention from the applied prior art.

WHEREFORE, Applicants respectfully request entry of the amendments presented, reconsideration of the application, withdrawal of the rejection under 35 U.S.C. §103, and allowance of Claims 11-20.

Respectfully Submitted,

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